

REPORT OF THE
OFFICE OF THE AUDITOR GENERAL

856.1

STATE WATER RESOURCES CONTROL BOARD
AND
REGIONAL WATER QUALITY CONTROL BOARDS:
NEED FOR UNIFORM REGULATORY POLICIES AND PROCEDURES

APRIL 1979



California Legislature

Joint Legislative Audit Committee

GOVERNMENT CODE SECTION 10500 et al

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RICHARD ROBINSON
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April 25, 1979

856.1

The Honorable Speaker of the Assembly
The Honorable President pro Tempore of the Senate
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members of the Legislature:

Your Joint Legislative Audit Committee respectively submits the Auditor General's review of selected areas of the Water Quality Control Program administered by the State Water Resources Control Board and the nine California Regional Water Quality Control Boards.

The report identifies deficiencies in the administration of inspection and monitoring activities required in regulating persons discharging pollutants into the waters of the State.

The Auditor General has made specific recommendations to the State Board to establish and enforce uniform regulatory policies and procedures, including minimum reporting/utilization requirements for the waste discharger management information system.

The auditors are Harold L. Turner, Audit Manager; William S. Aldrich and Leslie B. Greening.

Respectfully submitted,

RICHARD ROBINSON
Assemblyman, 72nd District
Chairman, Joint Legislative
Audit Committee

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SUMMARY

The Porter-Cologne Water Quality Control Act, Division 7 (commencing with Section 13000) of the Water Code, established a comprehensive statewide program to protect and enhance the quality of all waters of the State. The program is administered by the State Water Resources Control Board and nine regional water quality control boards within a framework of statewide coordination and policy.

The nine regional boards do not have uniform procedures for conducting inspections and self-monitoring functions required in regulating persons discharging pollutants into the waters of the State. We found:

- Wide variations in self-monitoring report review and follow-up systems
- Considerable variation in inspection frequencies and formats
- Inconsistent updating and inspection of state permits.

Considerable resources have been expended on developing a management information system that is inaccurate and incomplete. Regions maintain duplicate manual systems, some of which are inadequate.

We recommend that the State Board establish and enforce uniform policies, procedures and formats for inspections, self-monitoring functions and renewal of permits. We also recommend that the Board both reevaluate the objectives of the waste discharger management information system, considering state and regional needs, and develop and implement minimum reporting/utilization requirements.

INTRODUCTION

In response to a resolution of the Joint Legislative Audit Committee, we have reviewed selected areas of the water quality control program administered by the State Water Resources Control Board (State Board) and the nine California Regional Water Quality Control Boards. This review was conducted under authority vested in the Auditor General by Section 10527 of the Government Code.

The State Board and nine regional boards are responsible for controlling water quality and administering water rights. The nine regional control boards carry out the regulation component of the water quality control program under State Board policies. Our review focused on the water quality control program, particularly the administration of regional surveillance and monitoring activities required in regulating waste dischargers. A second report will address the upgrading of municipal wastewater treatment facilities under the federal Clean Water Grant Program.

The Porter-Cologne Water Quality Control Act, Division 7 (commencing with section 13000) of the Water Code, provides general legislative authority for the state's water quality control program. The act also authorizes the State Board to exercise those powers delegated to the State by the Federal

Water Pollution Control Act, P.L. 92-500. The 1979-80 Governor's Budget estimates \$106 million total expenditures during 1978-79 for water quality; \$90 million for facility development assistance and \$9 million for regulation (of this \$9 million, \$1.3 million finances regional boards' surveillance and monitoring activities).

BACKGROUND

The regional boards regulate those agencies or persons discharging waste* through three closely related activities: (1) adoption of Waste Discharge Requirements (WDRs), (2) surveillance and monitoring and (3) enforcement. The WDRs are issued to waste dischargers and specify limits on the quality and quantity of an effluent, that is, waste water containing pollutants, discharged into the waters of the State. WDRs also indicate the condition or degree of purity that must be maintained in the receiving water. These requirements are based on water quality control plans or basin plans that have been developed by the regional boards and approved by the State Board.

* "Waste" includes sewage and other waste substances. Any person discharging waste or proposing to discharge waste that could affect the quality of waters (including underground waters) of the State other than into a community sewer system, must file a report of the discharge with the regional board. The regional board, after necessary hearings, prescribes requirements as to the nature of any proposed discharge, existing discharge or material change therein.

For persons or agencies discharging waste to navigable waters of the United States, WDRs also serve as permits satisfying the requirements of the National Pollutant Discharge Elimination System (NPDES) established by federal law.* The Environmental Protection Agency (EPA) has delegated to the State the responsibility to administer these federal permits in California. Federal permits are classified as major or minor by annual agreement with EPA, depending primarily upon the quantity of effluent discharged. As of September 1978 there were approximately 6,000 Waste Discharge Requirements in force in California, comprised of 1,500 federal and 4,500 state.

Surveillance and monitoring activities which enable the State and regional boards to regulate waste dischargers include collecting, interpreting and maintaining data on water quality and quantity. Compliance inspections and review of dischargers' self-monitoring reports are two key surveillance and monitoring activities conducted by regional board staffs.

If the regional board's surveillance and monitoring activities uncover a violation of discharge requirements, the board encourages the discharger to voluntarily comply with the permit. If this strategy fails, the board seeks administrative enforcement and finally judicial enforcement remedies.

* WDRs are statutorily deemed to equal the term "permits" as used in federal law (Section 13374, Water Code).

The State Board functions as an appellant body for the regional boards and may also review regional board actions even though no one has filed an appeal. The State Water Resources Control Board consists of five full-time appointees of the Governor; the chairman is designated by the Governor while the vice chairman is elected by the board. The board members must meet qualifications in certain fields as specified in the code. To carry out its responsibilities, the board maintains approximately 500 staff members, headed by an executive director.

Each of the nine California Regional Water Quality Control Boards is composed of nine part-time members appointed by the Governor. Each regional board has a full-time staff headed by an executive officer. The combined total staffing of the regional boards is approximately 280.

SCOPE AND METHODOLOGY

In conducting the review we:

- Interviewed EPA officials and reviewed federal laws, regulations and guidelines to determine federal criteria for water pollution control. We also reviewed EPA grant documents concerned with surveillance and monitoring activities and the State Board's output reporting under these grants

- Interviewed State Board staff and reviewed state laws, regulations, administrative procedures manual and other program documents to determine statewide requirements, policies and procedures
- Visited all nine regions and reviewed pertinent records regarding inspections and self-monitoring, permit compliance and the use of the automated waste discharger management information system.

Statewide, we found that the State Board and the nine regional boards administer an effective inspection and monitoring program under changing federal guidelines and state budget limitations. We have, however, identified some areas where the State and regional boards could improve their efficiency and effectiveness.

AUDIT RESULTS

CONSISTENT INSPECTION AND SELF-MONITORING REVIEW SYSTEMS NEEDED

The nine regional boards do not uniformly review dischargers' self-monitoring functions or conduct inspections. In reviewing the operations of the regional boards, we found wide variations for reviewing and acting upon self-monitoring reports. Also, these reports lack a standardized format. We also found that regions conduct inspections at various intervals and record inspection information on a variety of forms. Additionally, state permits are not being inspected and/or updated in a consistent manner. As a result Waste Discharge Requirements are not uniformly regulated statewide, the State has lost revenue and dischargers are treated inconsistently.

Self-Monitoring Review and Follow-up Systems Vary Greatly Between Regional Boards

Regional Water Quality Control Boards establish self-monitoring programs for waste dischargers as part of their waste discharge requirements. The programs include sampling and testing procedures and schedules for submitting reports which regional board staff evaluate. We found wide variation in the way regional boards review and act upon these self-monitoring

reports. Some boards review and follow-up immediately while others have not taken action on a number of reports. These various procedures lead to inconsistent treatment of dischargers and also deprive the State of relevant water quality information.

For example, one region required that dischargers submit self-analysis of violations with reports. Regional staff would immediately review and follow-up the dischargers reports, compiling a monthly report of significant violations with proposed remedial action. The executive officer used this report to schedule the next month's inspections. Another region also reviewed reports and acted upon them immediately. This region also maintained summary sheets showing historical compliance status.

Other boards had not acted on a number of reports. In our review of 48 permit files at one region, we found no evidence of formal follow-up action on 16 dischargers that were in violation of requirements. The staff stated that automated review of self-monitoring reports was their number one need. Another region had not acted upon the problems indicated within a significant number of self-monitoring reports. During our review of 22 permits at this region, we found 10 reports in violation of requirements without follow-up. The region had developed a system for review and identification of violations; however, they

took no action. A monitoring review for the period from June 1977 to July 1978 indicates that 105 dischargers violated self-monitoring requirements. This figure represents 17.6 percent of the region's total number of dischargers. Staff indicated that other priorities disallowed a follow-up.

While the self-monitoring program is designed to prevent pollution through self-regulation, these inconsistent review practices result in inconsistent water quality control. Dischargers located in regions which review and act upon self-monitoring reports will probably be required to comply with requirements while others in regions that do not follow-up may be in violation without penalty.

Under certain circumstances, some self-monitoring reporting may be reduced. Federal regulations concerned with self-monitoring reports state: "Reporting frequency as with monitoring frequency depends on the nature and impact of the discharge . . . Reporting frequency should correspond with administrative capability to evaluate the reports as they come in."* Three of the regions told us they had staffing problems

*Title 40, Subpart G, Section 124.63.

and, in prioritizing their workload, had given lower priority to certain permits they considered as having the least effect on water quality. Accordingly, we believe that some reductions in the number of reports may be possible. For example, some monthly or quarterly reporting could be reduced to yearly. Such reductions could be based on uniform statewide criteria that included (1) regularly scheduled inspections during which the dischargers' self-monitoring program is validated and (2) authorizations only for dischargers with a history of continual compliance with requirements.

Standard Report Format Needed

We also found wide variation in the formats which regional boards used for federal self-monitoring reports. Federal regulations state that self-monitoring results should be reported on the proper NPDES format. The state and regional boards' administrative procedures manual indicates that monitoring results shall be reported on the proper NPDES reporting form and specifies EPA Form 3320-1. Despite these guidelines, we found that only two of the nine regions used this form. Two other regions used a computer-generated state form that was comparable to the EPA form. The remaining five regions used a variety of local forms, some of which were not comparable to the EPA form, particularly in the section entitled "frequency

of occurrence." Some of the regions explained that they used individualized forms rather than EPA forms either because some dischargers are sophisticated and require special forms or because each program is uniquely different.

A standardized report format could maximize use of the computerized management information system. This modification would result in manpower savings because it would reduce the time required to review reports and complete computer-entry forms. At the present time most of the regions first review a self-monitoring report then fill out standard computer entry forms listing which parameters were violated and the significance of the violation. Standardized report forms fed directly into the computer would save board personnel time and eliminate unnecessary tasks in the report review process.

Variations in Inspection Systems

Regional board personnel inspect discharger facilities to assure compliance with permit requirements, validate self-monitoring reports, check receiving water standards compliance and provide data for enforcement actions. The nine regions conduct inspections at different intervals and record information on dissimilar inspection documents. Also, due to the lack of criteria, state permits are not inspected and/or updated in a consistent manner. Consequently, regions maintain

inconsistent inspection standards, thereby causing an inconsistent application of the law and loss of filing fee revenues to the State.

Need for Inspection Schedules

The Water Code states that all requirements shall be reviewed periodically. The State and Regional Board's Administrative Procedures Manual states:

Each Regional Board shall develop a schedule for inspection of all waste dischargers within the region to determine compliance with waste discharge requirements.

However, federal guidelines are more specific. In the annual grant agreement EPA requires the State to perform one "c" level inspection annually for major dischargers and one "b" or "c" level inspection during the five-year permit life for minor dischargers.*

As a result of the lack of specificity and enforcement of state guidelines, we found that regions had adopted diverse inspection policies. In five regions the frequency of inspections exceeded EPA requirements for NPDES permits. These regions also had policies requiring periodic inspection of state permits. However, the other regions had no overall schedule or

* A "c" level inspection is a check during which a sample of the effluent is taken for laboratory analysis. No samples are taken during a "b" level inspection.

policy other than those required by EPA for federal permits; likewise, they had no schedule for inspecting state permit holders.

The regions need an overall inspection schedule to control, account for and ensure that all dischargers are inspected periodically. Although state guidelines require regions to establish an overall schedule, these requirements have not been met. As a result, in many cases we could not determine when a discharger was last inspected without reviewing its individual permit files.

Need for Standardized Inspection Forms

Aside from these disparities in inspection schedules, we also found that four of the nine regions did not use the national NPDES compliance Inspection Report (EPA Form 3560-3) on a routine basis even though EPA, in a May 4, 1977 letter detailing 1977-78 fiscal year guidelines, stressed the importance of using this inspection form to provide standard, reviewable information for enforcement purposes:

Using the same form and format will minimize the reporting burden on inspectors and permittees because identical elements of compliance (e.g., permittee records and self-monitoring program, etc.) are examined A completed form contains all the information appropriate to the accomplished inspection. A completed form is, by definition, also what will be accepted by the Enforcement Director of the agency responsible for enforcing the permit. . . .

The Administrative Procedures Manual, developed in 1975 as a guideline for state and regional board operations, specified the use of various report formats. However, this manual did not specify formats for inspection reports. A prior Surveillance and Enforcement Manual prepared for the State Board in 1974 emphasized the need for standardization in inspection reports especially in light of potential enforcement proceedings. The manual listed two crucial reasons why a report's scope and specificity should not vary:

First, at the time the report of a surveillance or monitoring activity is filed, the staff member does not know whether it will be utilized as the basis of an enforcement order. Second, even if a formal administrative hearing is not held, the decision based on the report may be tested in court, where the accuracy, sufficiency and admissibility of the data will be in issue.

We compared various forms regional personnel used to record inspections and found that these report formats included data which varied among the regions and which did not always satisfy the requirements of EPA Form 3560-3. Other forms ranged from a completely unstructured memorandum to a one-page checklist. These formats, unlike the EPA form, do not require detailed information on operations and maintenance, time compliance schedules, validation of self-monitoring and permit verification. As a result, in many cases we could not determine from the inspection report whether a discharger was in compliance

or not. In other cases inspection reports indicated compliance, while a quarterly report sent to EPA indicated significant noncompliance with as much as a three-year delay in time schedules. Since these different report forms do not standardize a minimum amount of information, only the inspector's discretion determines the quality of that inspection.

These variations in inspections systems both in frequency and format create potentially different inspection standards among regions. And these variant standards result in inconsistent application of state guidelines. Ultimately, these inconsistencies are caused by the lack of uniform guidelines which would establish minimum inspection frequencies and inspection report formats.

State Permits Are Not Consistently
Inspected and/or Updated

As noted in the Introduction, the regional boards issue Waste Discharge Requirements (WDRs) or permits for discharge of waste that could affect the quality of the waters of the State. Filing fees of up to \$1,000 are collected for issuance and revision of these WDRs based on a material change. Approximately 1,500 of the 6,000 permits in force under state law are also required under federal law. The other 4,500 are required only by the state law. Despite the guidelines cited earlier in the Administrative Procedures Manual concerning inspection schedules

and the water code provisions that all requirements be reviewed periodically, we found wide disparities in the regional boards' inspection and updating/renewal of these state permits.

Often the stated policies of regional boards were not reflected in actual permit inspection or renewal. For example, one region indicated that their policy was to renew state permits every three years as needed with inspections averaging every one and one-half years. However, in reviewing this region, we found no inspection or renewal schedule and one permit dated September 11, 1953 for a discharger which was last inspected in June of 1975. The staff agreed that this permit needed to be updated. Another region's executive officer stated his policy was to review all state permits for discharge changes to consider possible renewal for permits every five years and to inspect yearly; however, he had given this area low priority due to other workload. Although the staff was presently attempting to inspect all dischargers at least once a year, our review of 14 state permits indicated that 10 permits exceeded five years and 3 had no record of inspections. The oldest permit reviewed was dated October 13, 1955 and had a nine-year gap in inspections, from 1968 to 1977. Another permit dated April 17, 1963 had a seven-year gap in inspections from 1970 to 1977; this permit had no self-monitoring program.

One region's executive officer believed there was a five-year renewal requirement but considered it unrealistic. His policy was to inspect dischargers once a year based on the region's budget. There was no overall inspection schedule and of 23 state permits reviewed, 13 were over five years old and 5 had no record of inspection. The oldest permit was dated November 21, 1957. Internal records indicated that staff recognized as early as June 1975 that new requirements were necessary; however, they had not been issued as of the date of our review. Another state permit issued November 21, 1958 was last inspected September 26, 1969 but had not been updated or inspected since.

One region observed a unique fee policy for permit renewals. This region indicated they reviewed all state permits every five years for renewal and inspected all at least twice a year. This region had an unwritten policy to charge a filing fee for renewal only if it was due to a change in discharge, not for those permits updated as a result of basin plan changes.

Unlike state permits, federal permits are required to be renewed every five years. Also, as mentioned earlier, EPA has issued guidelines establishing minimum inspection frequencies--once a year for major dischargers and once during the five-year permit life for minor dischargers. The result of this disparity between federal and state permit follow-up

procedures is that the 1,500 federal permits are inspected and renewed in a consistent manner while the remaining 4,500 state permits are not. In addition, due to the inconsistent policies and procedures among the regions (a) there is potential for extended violation of requirements without detection and (b) there is an erratic application of the law, because some state permits are renewed and inspected while others are not. Another complication is that regions charge filing fees of up to \$1,000 for issuance and updating/renewal of waste discharge requirements. As a result of the inconsistent application of the law, the State is losing revenue. However, due to incomplete and inaccurate data, we were unable to quantify the loss.

CONCLUSION

There is considerable variation in inspection and self-monitoring systems as administered by the nine regional boards. Inspection formats and frequencies differ between regions. In addition, state permits are not inspected or updated in a timely manner. Also, the procedures for review and follow-up of self-monitoring reports vary greatly. These variations can lead to different regional standards and result in inconsistent application of the law.

RECOMMENDATION

We recommend that the State Water Resources Control Board establish and enforce:

- Uniform guidelines for self-monitoring formats, policy and procedures for review follow-up and possible reduction of the number of reports
- Standard inspection policies which indicate minimum frequencies and required formats
- Revised administrative regulations to specify updating/renewal requirements for state permits.

USE OF WASTE DISCHARGER
MANAGEMENT INFORMATION SYSTEM
COULD INCREASE ACCOUNTABILITY,
ECONOMY AND EFFICIENCY

The waste discharger management information system is inaccurate and not used by four of the nine regions. Duplicate manual systems are being maintained, some of which are inadequate. As a result, the considerable resources spent on developing and operating the system may have been misdirected.

The State Board is developing a Statewide Waste-Water Information Management System (SWIMS). The system is a combination of (1) the California Wastewater Improvement Control System (CWICS) for project and financial control of the Clean Water Grant Program and (2) the Waste Discharger System (WDS), a centralized information source for control of waste dischargers. This development is a result of feasibility studies conducted in 1976 and 1977 which concluded that these systems should be integrated to create a central data base, to replace the old system--a combination of manual methods and independently developed and maintained Electronic Data Processing files.

SWIMS is currently funded at \$485,000 through June 30, 1979--\$235,000 is allocated for CWICS and \$250,000 for WDS. Board personnel estimate that the additional cost of implementing

Phase II of WDS, scheduled for completion by June 30, 1980, will total \$75,000; maintenance of the system is expected to cost about \$50,000 per year. This phase will incorporate an automated review of self-monitoring reports.

The WDS is designed primarily for regional use in tracking and controlling waste dischargers. The system is an updated version of the five-year old Enforcement Action Module (EAM) which has been modified based on regional desires for flexibility in tailoring reports. The current system provides over 40 different reports, including inspection schedules and inspection/self-monitoring compliance history.

Even though considerable funds have been spent in developing EAM and WDS, we found the current data file to be inaccurate and incomplete. We compared the inspection/self-monitoring history in the data file with actual on-site manual records and found discrepancies in all nine regions. Some of the discrepancies were due to the regions' failure to verify input data. However, the greater discrepancies arose from the regions' failure to feed data into the system and adopt policies for its usage. For example:

- Two regions have failed to input data since 1977. One of these not only refused to input data but has refused to participate in meetings held to tailor the system to regional needs
- One region had 172 Waste Discharge Requirements missing from their inspection/self-monitoring history. This region relied on part-time student help to complete computer input forms
- Another region had 200 WDRs missing. This region's policy was not to submit data on WDRs unless their dischargers have a history of violation
- Four of the nine regions told us they did not use the computer data. However, we found that all nine regions had received at least one of the 40 print-outs available.

The overall effect is that (a) the Board has directed considerable resources into developing a system that contains inaccurate and incomplete data, while at the same time, (b) regions are maintaining inadequate duplicate manual systems to control dischargers. Some regional manual systems do not include consolidated inspection schedules or a compliance history. Consequently, management must rely on inaccurate

and/or incomplete information. Some regions do not know the overall status of compliance of their dischargers, nor does the State Board. Under these constraints, the State cannot fully evaluate its water quality control program.

Some regions view the current system as a tool exclusively for the State Board's use. Some of the reasons the regions gave for not utilizing the system include: slow turnaround time for reports; manual records are still needed during enforcement actions; the system creates too much paperwork and few benefits; regions do not have the time or staff to update information.

However, most of these reasons given for not utilizing the current system indicated to us a lack of understanding and/or communication of the need for and benefits inherent in the system. For instance, the regions could use consolidated compliance status to help ensure that staff assignments cover all dischargers and that scheduling is efficient. This system could generate inspection schedules that would ensure a minimum frequency for inspecting all dischargers. Staff could use these inspections, coupled with updated historical self-monitoring compliance status by staff to reduce reports for dischargers showing continual compliance, thus reducing the total number of reports to be reviewed. The planned automated review of self-monitoring reports could free a substantial work force for

other tasks. For the year ending June 30, 1978, the regions reported over 14 manyears used in review of 20,000 reports. If the system automatically reviewed reports, the regions could concentrate this manpower on exceptions or violations as they are discovered.

The State Board could also benefit from full use of the WDS system. The consolidated compliance status could facilitate statewide evaluation and reporting. We feel the State Board needs accurate information for budget accountability. Presently, the Board is unable to verify regional data, such as the number of inspections performed or the number of self-monitoring reports reviewed.

Basin plans and program documents have long indicated the need for WDS. However, the development and implementation of such a system should be based on projected usage and cost/benefit relationships. In view of the neglect of this system, the State Board may find it necessary to restate the objectives of WDS based on current and projected state and regional needs. In our opinion, the State Board needs certain information that could be supplied by WDS for budgetary control and implementation of uniform statewide policy, and to secure this information, should develop and enforce minimum reporting standards.

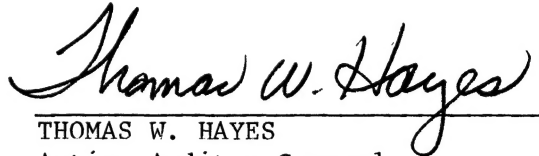
CONCLUSION

Approximately \$250,000 has been expended on developing the Waste Discharger System (WDS), a centralized information source for controlling waste dischargers. However, the current data file is inaccurate because regions are reluctant to submit and update system information. Further, four of nine regions indicated that they seldom use the system. Instead, they maintain duplicate manual records, some of which are inadequate in that they do not include overall inspection schedules and historical compliance data. Using WDS could eliminate some of the weaknesses found in regional inspections and self-monitoring systems and could result in increased accountability, economy and efficiency.

RECOMMENDATION

We recommend that the State Water Resources Control Board reevaluate the objectives of the Waste Discharger System by considering state and regional needs, and develop and implement minimum reporting/utilization requirements.

Respectfully submitted,


THOMAS W. HAYES
Acting Auditor General

Date: April 18, 1979

Staff: Harold L. Turner, Audit Manager
William S. Aldrich
Leslie B. Greening

Memorandum

To : Tom Hayes
Acting Auditor General
California Legislature
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Sacramento, Calif. 95814

Date : April 16, 1979

From : **STATE WATER RESOURCES CONTROL BOARD**

Subject: Draft Report of the Office of the Auditor General to the
Joint Legislative Audit Committee

We have reviewed your draft report, "State Water Resources Control Board and Regional Water Quality Control Boards: Need for Uniform Regulatory Policies and Procedures, April, 1979". We appreciate your acknowledgment that "Statewide, we found that the State Board and the nine regional boards administer an effective inspection and monitoring program under changing federal guidelines and state budget limitations".

Your recommendations for improving Regional Board actions is consistent with our desires to ensure a high level of water quality protection for the public. It is also important to recognize that the Porter-Cologne Act intended that consideration for regional solutions is in the public interest. Secondly, as you acknowledge, we have diligently pursued the automation of the Regions' monitoring activities but are still experiencing some difficulties in getting the system accepted by the regions. We intend to continue our ongoing evaluation of objectives and make appropriate adjustments. We are confident the system will prove effective over time.


W. Don Maughan
Chairman



Office of the Auditor General

cc: Members of the Legislature
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